

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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E. RÉMY MARTIN & CO.,	:	
	:	
	:	<u>ORDER DENYING IN PART</u>
Plaintiff,	:	<u>AND GRANTING IN PART</u>
-against-	:	<u>MOTIONS TO DISMISS</u>
	:	<u>COMPLAINT</u>
SIRE SPIRITS LLC, VETROELITE INC., and	:	
VETROELITE S.P.A.,	:	21 Civ. 6838 (AKH)
	:	
Defendants.	:	
	:	
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ALVIN K. HELLERSTEIN, U.S.D.J.:

Defendants Sire Spirits LLC, Vetroelite Inc., and Vetroelite S.P.A. move to dismiss the trademark-related claims in Plaintiff E. Rémy Martin & Co.’s First Amended Complaint (“FAC”) for failure to adequately articulate the precise nature of the trade dress claimed. (ECF Nos. 73, 75).


Plaintiff alleges that its trade dress is comprised of: “(a) a toroidal shape; (b) a flat, recessed center; and (c) ridging on the front and back surfaces surrounding the recessed center of the bottle and encircling the outward edges.” FAC ¶ 20, ECF No. 68. This “creates a scalloped appearance when the bottle is viewed from the front or back.” *Id.*

“[A] plaintiff seeking to protect its trade dress in a line of products must articulate the design elements that compose the trade dress[.]” *Yurman Design, Inc. v. PAJ, Inc.*, 262 F.3d 101, 116–117 (2d Cir. 2001). Plaintiff has met this burden. Accordingly, the motions to dismiss are denied.

Defendants shall answer by April 8, 2022. The parties shall make their Initial Disclosures promptly thereafter. The Initial Pre-Trial Conference will be held on April 29, 2022 at 10:00a.m. The Clerk of Court shall terminate ECF Nos. 73, 75.

SO ORDERED.

Dated: March ~~22~~, 2022
New York, New York


ALVIN K. HELLERSTEIN
United States District Judge